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No. 89-94

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1989

LARRY WITTERS,
Petitioner,
v.

WASHINGTON DEPARTMENT OF SERVICES FOR THE BLIND,
Respondent

On Writ of Certiorari to The Supreme Court of Washington

BRIEF AMICUS CURIAE OF THE COMMITTEE FOR EQUAL RIGHTS IN EDUCATION IN SUPPORT OF GRANTING THE WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether the denial of state and federal funds for the vocational training of a handicapped person solely on the basis of that person's protected religious choice to pursue a vocation as a pastor, missionary, or youth director clearly departs from this Court's teaching about free exercise of religion.

II. Whether the state's exclusion of a person from a governmental entitlement solely on the basis of that person's protected religious choice to pursue a vocation as a pastor, missionary, or youth director violates the equal protection clause of the fourteenth amendment.

III. Whether an apparent conflict exists among state courts of last resort on the relationship between parallel provisions of the state and federal constitutions dealing with religious freedom and equality.

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STATEMENT OF INTEREST

The Committee for Equal Rights in Education (CERIE) consists of attorneys and other individuals interested in legal action to secure equal opportunity in educational choice for all families to choose public or private education, regardless of race, income or religion. It gives highest priority to achieving equality in educational choice for those families who suffer most from legal or economic barriers in their ability to afford to pick the "right" public school attendance area or to choose private schools.

CERIE has a direct interest in this litigation because a number of states have decided to forego programs designed to promote equal opportunity for educational choice, in part because of the mistaken notion that a textual commitment in a state constitution to stricter separation of church and state than is required under the federal establishment clause obviates further analysis of the federal constitutional provisions dealing with religious freedom and equality.

The parties to this case, moreover, are primarily concerned with the resolution of the case under the Washington constitution and the relevant provisions of the federal provisions. In this amicus brief CERIE has collected the provisions of the constitutions of the several states that resemble Art. I, § 11 of the Washington Constitution. These provisions support the conclusion that in its current posture this case again merits review by this Court because of nation-wide scope of the potential conflict between parallel provisions of the federal and state constitutions dealing with religious freedom and equality.

Under Rule 36.1 of this Court, the amicus has obtained the consent of counsel for the parties to file this brief. The consent letters have been filed with the Clerk of the Court.

SUMMARY OF ARGUMENT

This Court is already familiar with the parties to this litigation, which is now over ten years old. The petitioner is a legally blind adult who seeks to participate in a program of assistance in vocational rehabilitation that is funded by the federal government and by the State of Washington. The particular form of vocational training that the petitioner desires is educational training for the lawful occupation of some form of church ministry as pastor, missionary, or youth director.

The respondent, Washington Department of Services for the Blind, has not declared Mr. Witters ineligible for participation in this entitlement program. On the view, however, that it may not expend state funds for "religious instruction," respondent has declined to provide public funds for the particular program of studies that the petitioner wishes to undertake.

In its first review of this case, the Washington Supreme Court sustained the administrative decision of the respondent on the ground that "the provision of state aid to a person studying to be a pastor, missionary, or church youth director violates the establishment clause of the first amendment to the United States Constitution." *Witters v. Commission for the Blind*, 102 Wash.2d 624, 626, 689 P.2d 53 (1984) [*Witters I*]. This Court unanimously rejected that conclusion, and remanded the case for further proceedings. *Witters v. Washington Dep't of Services for the Blind*, 474 U.S. 481, *reh'g denied*, 475 U.S. 1091 (1986).

On remand, the Washington Supreme Court again sustained the respondent's denial of welfare benefits to the petitioner. *Witters v. Washington Dep't of Sers. for the Blind*, 112 Wash.2d 363, 771 P.2d 1119 (1989) [*Witters II*]. Primary attention was focused on the correctness of the respondent's decision under the state constitution, the interpretation of which split the lower court 5-4.

Three problem are presented in this case. First, the Washington Supreme Court has adopted a view of its state constitution that conflicts with relevant precedents

of this Court construing the free exercise clause of the federal constitution (Part I, *infra*). Second, its construction of its state constitution departs from the teaching of this Court on the equal protection clause (Part II, *infra*). Third, the lower court's interpretation of the relationship between the parallel provisions of the federal and state constitutions is in apparent conflict with the approach taken by many other state courts of last resort. (Part III, *infra*).

Amicus urges this Court to grant review of this case because the lower court did not attend sufficiently to the precedents of this Court relating to the protection of free exercise of religion under the first amendment to the federal constitution, or to this Court's precedents relating to equal protection secured under the fourteenth amendment to the federal constitution. Another reason for granting the writ is that this case in its current posture affords this Court an opportunity to clarify for the state courts the relationship between state constitutional provisions and the mandates of the federal constitution.

ARGUMENT

I. This Court Should Grant the Writ because the Decision below clearly Departs from this Court's teaching on the Free Exercise of Religion.

In our system of federalism, it is clear that state courts are the final arbiters of the meaning of state law, including the state constitutions.[1] For this very reason

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1 In *Witters I*, 102 Wash. 2d 624, 643-649, 689 P. 2d 53 (1984) (Utter, J., dissenting), and in a scholarly article, Utter & Larson, "Church and State on the Frontier: The History of the Establishment Clauses in the Washington State Constitution," 15 Hastings Con. L. Q. 451 (1988), Justice Utter set forth the relevant history of Art. 1, § 11 of the state constitution. Without disputing any of these conclusions about the provision on which it rested its decision, and without offering any reason why this provision should be interpreted differently from the federal constitution under the criteria established by the Washington

this Court expressly acknowledged that the Washington Supreme Court was free to review this case on remand under its own state constitution. *Witters v. Washington Dep't of Services for the Blind*, 474 U.S. 481, 489 (1986).

Eminent jurists have recently given new impetus to the movement stressing the importance of state constitutional law an as independent source of the protection of human rights.[2] This emphasis is fully harmonious with this Court's teaching that when a state court has clearly based its decision on an adequate, independent state ground, this Court lacks jurisdiction to review that decision. See, e.g., *Michigan v. Long*, 463 U.S. 1031 (1983); *PruneYard Shopping Center v. Robins*, 447 U.S. 74 (1980).

Where, however, a federal question is presented by virtue of an apparent conflict between the interpretation of state law and the requirements of the federal constitution, this Court manifestly has jurisdiction to review that decision, at least to determine whether a genuine conflict between a federal interest and a state interest exists. That is the situation here.

In one footnote in *Witters II*, App. 10a, n. 18, the Washington Supreme Court includes a string cite to this Court's precedents on free exercise. The reader is told to "see" these cases, the relevance of which to this case is never discussed. The real message that *Witters II* commu-

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Supreme Court in *State v. Gunwall*, 106 Wash. 2d 54, 720 P. 2d 808 (1986), the majority concluded that the respondent's denial of state aid to the petitioner was required under Art. 1, § 11. App. 5a-8a. Although Justice Utter has arguably given a better account of the meaning of this provision, the interpretation of state law is not before this Court. The federal question presented here is whether, assuming the majority's reading of the state constitution is correct, that interpretation conflicts with the mandates of the free exercise clause of the first amendment and the equal protection clause of the fourteenth amendment, and must therefore be set aside under the supremacy clause.

2 See, e.g., Brennan, "State Constitutions and the Protection of Individual Rights," 90 Harv. L. Rev. 489 (1977); Linde, "First Things First: Rediscovering the States' Bills of Rights," 9 U. Baltimore L. Rev. 379 (1980).

nicates is that once the meaning of a state constitutional provision has been determined, further scrutiny of this Court's precedents is not really necessary.

If the lower court had taken these precedents more seriously, three glaring errors could have been avoided. As things stand, this Court should grant the writ because the lower court's treatment of the safeguard of the free exercise clause is so perfunctory that it constitutes a significant departure from this court's precedents on three major issues. First, the lower court erred by giving minimal rather than broad scope to the protection afforded to religious activity under the free exercise clause. Second, the lower court erred by authorizing the denial of welfare benefits to persons in a manner that burdens the free exercise of religious choice without a showing of a compelling state interest. Third, the lower court authorized the denial of the benefit to the petitioner on a record totally devoid of any showing by the respondent that it lacked less restrictive alternatives to effectuate the government's interest.

A. The Denial of a Governmental Entitlement Constitutes a Burden on the Free Exercise of Religion.

The lower court concluded that its interpretation of the state constitutional provision banning the expenditure of state funds for religious instruction constitutes no difficulty under the federal free exercise clause. *Witters II*, App. 9a-11a. The lower court notes that the current standard for free exercise analysis requires the religious claimant to make a showing of "the coercive effect of the enactment as it operates against him in the practice of his religion." App. 9a, citing *School Dist. v. Schempp*, 374 U.S. 203, 223 (1963). Without any support in this Court's precedents, and citing only the opinion in *Witters I* that this Court reversed, the lower court ruled that no burden is imposed on the petitioner's religious freedom unless the government compels or pressures an individual "to violate a tenet of his religious belief." App. 9a.

In a series of cases dealing with the denial of unem-

ployment benefits to sabbatarian workers, this Court has repeatedly clarified that governmental "compulsion" or "coercion" of a religious claimant is present not only when the government acts directly to impose criminal sanctions on protected religious activity, but also when the government subtly pressures the religious claimant to choose between his or her religious commitments and the denial of a welfare benefit to which the claimant is otherwise entitled. See, e.g., *Sherbert v. Verner*, 374 U.S. 398, 404-405 (1963); and see *Frazee v. Illinois Dep't of Employment Security*, 109 S. Ct. 1514 (1989); *Hobbie v. Unemployment Appeals Comm'n of Florida*, 480 U.S. 136 (1987); *Thomas v. Review Board of the Indiana Employment Security Division*, 450 U.S. 707 (1981).

The lower court cites from the concurring opinion of Justice Douglas in *Sherbert*, an opinion joined by no other Justice. App. 11a. Indeed, the lower court totally ignores the significance of Justice Brennan's opinion for the Court in *Sherbert* on the very matter under discussion, namely the burden on the petitioner's religious freedom caused by the respondent's denial of a governmental entitlement solely on the basis of the petitioner's religious convictions. The Court refers to *Sherbert, Hobbie* and *Thomas* in a single footnote as cases "dissimilar" to this case without offering a word of explanation as to why they should not control.

The lower court has now ruled twice that the petitioner's eligibility to participate in a vocational rehabilitation program funded by the federal and state governments may be conditioned on an assurance that no part of the federal or state funds are expended for "religious instruction."[3] It is, of course, plain that petitioner's

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3 The sweeping scope of the lower court's view systematically ignores the distinction repeatedly drawn by this Court in cases involving financial assistance to institutions of higher education or to students attending them. See, e.g., *Tilton v. Richardson*, 403 U.S. 672 (1971); *Hunt v. McNair*, 413 U.S. 734 (1973); *Roemer v. Board of Public Works of Maryland*, 426 U.S. 736 (1976); *Americans United for Separation of Church and State v. Blanton*, 433 F. Supp. 97 (M.D. Tenn.), summarily

choice of a ministerial vocation is at the core of protected religious activity. See, e.g., *McDaniel v. Paty*, 435 U.S. 618, 630-631 (1978) (Brennan, J., concurring). It is only by ignoring the clear teaching of this Court in *Sherbert* and its progeny that the lower court could reach the remarkable conclusion that conditioning the availability of an entitlement in a manner that virtually excludes the petitioner's vocational choice does not effectively penalize or burden the free exercise of religion. In reaching this conclusion, the lower court needlessly truncated the protection afforded under the free exercise clause of the federal constitution. For that reason alone, the writ should issue.

B. The State made no credible showing on this record that its interest in denying funding of the petitioner's vocational choice was truly compelling.

Having missed the significance of *Sherbert* on the issue of whether the denial of a governmental entitlement constitutes a burden on the free exercise of religion, the lower court also departed from this Court's teaching that "[i]t is basic that no showing merely of a rational relationship to some colorable state interest would suffice" to justify the infringement of free exercise. "[I]n this highly sensitive constitutional area, '[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation.'" *Sherbert*, 374 U.S. at 406, citing *Thomas v. Collins*, 323 U.S. 516 (1945). As in *Sherbert*, "[n]o such abuse or danger has been advanced in the present case." *Sherbert*, *id.*

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aff'd, 434 U.S. 803 (1977); *Smith v. Bd. of Governors of Univ. of North Carolina*, 429 F. Supp. 871 (W.D. N.C.), summarily aff'd, 434 U.S. 803 (1977). If given general effect, the ruling of the lower court would have a dramatic impact on numerous programs of federal financial assistance, such as the College Work Study program, 20 U.S.C. 1088, 2330 et seq., by nullifying congressional guidelines for eligibility through the invocation of a state constitutional provision without any discussion of countervailing federal precedents.

In its pithy discussion of the equal protection claim, the lower court asserted: "The state has a compelling interest in maintaining the strict separation of church and state set forth in [Wash.] Const. art 1, sec. 11." App. 11a. Even if one were to agree that the majority's conclusion on the interpretation of state law is correct, a matter not before this court, see note 1 *supra*, the rationale offered by the lower court completely overlooks this Court's decision in *Widmar v. Vincent*, 454 U.S. 263 (1981) on that very issue. In *Widmar*, the General Counsel for the University of Missouri advanced the same claim urged by the Attorney General in this case, namely that a state's desire for greater separation of church and state under its state constitution than is required under the federal no-establishment clause constitutes a "compelling state interest" for purpose of overriding competing interests in religious freedom and freedom of speech protected under the first amendment of the federal constitution. This Court resoundingly repudiated that position in *Widmar*. 454 U.S. at 275-276. See also *McDaniel v. Paty*, 435 U.S. 618 (1978) (invalidating a provision of the Tennessee state constitution that conflicted with federal guarantees of free exercise of religion and equal protection of the laws).

The lower court refers to *Widmar* and *McDaniel* in one footnote, App. 10a, note 18, but does not discuss the relevance of these decisions to this case. Perfunctory mention of a controlling precedent that is then completely ignored surely falls within the scope of clear departure from this Court's precedents that supports the granting of certiorari.

C. The State made no credible showing on this record that it could not effectuate its legitimate interests in a manner less restrictive of petitioner's religious freedom.

In *Sherbert* this Court suggested that it is incumbent on the government "to demonstrate that no alternative forms of regulation would combat such abuses without infringing First Amendment right." 374 U.S. at 407. In sub-

sequent free exercise cases this Court has clarified that "[t]he state may justify an inroad on religious liberty by showing that it is the least restrictive means of achieving some compelling state interest." *Thomas v. Review Board*, 450 U.S. 707, 718 (1981). See also *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972) ("only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion.")

In its current posture, this case is totally devoid of any evidence to support the view that the state's denial of the petitioner's request for financial assistance was the least restrictive alternative available to the state. For example, even if federal guidelines relating to the use of the funds appropriated for vocational rehabilitation did not expressly mandate inclusion of training programs such as that sought by the petitioner, the state is surely free to operate this program on a neutral basis by providing a voucher system that would maximize freedom of individual choice without implicating the government in endorsement or sponsorship of any particular religious belief. That is how the G.I. Bill has functioned for veterans for decades without any challenge to its constitutional validity.

The lower court made no reference whatever to the requirement that the government may prevail against a free exercise claim only on a showing that it could not effectuate its legitimate interests in a manner less restrictive of petitioner's religious freedom. For this reason alone, the writ should issue to correct this significant departure from this Court's free exercise jurisprudence.

II. This Court Should Grant the Writ because the Decision below Clearly Departs from this Court's Teaching that the State's Exclusion of a Person from a Governmental Entitlement solely on the Basis of that Person's Religious Choice Violates the Equal Protection Clause of the Fourteenth Amendment.

The lower court's treatment of the equal protection claim is not just lean or spare. It completely overlooks the independent constitutional violation that occurs when the government is allowed to classify invidiously along religious lines. The end result of avoiding discrimination on the basis of religion may be achieved either by means of the religion clause of the first amendment, in either of it components. The nonestablishment principle clearly forbids preferential treatment of one religious group over another. See, e.g., *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J. concurring); *Larson v. Valente*, 456 U.S. 228 (1982); Everson v. Board of Education, 330 U.S. 1, 15 (1947); see also Paulsen, "Religion, Equality and the Constitution: An Equal Protection Approach to Establishment Clause Adjudication," 63 Notre Dame L. Rev. 311 (1986).

The free exercise principle likewise protects against invidious discrimination both by granting to all religious organizations an appropriate sphere of autonomy, see, e.g., *Corp. of Presiding Bishop v. Amos*, 487 U.S. 237 (1987); *Watson v. Jones*, 13 Wall. 679 (1872); and see Laycock, "Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy, 81 Colum. L. Rev. 1373 (1981), and by placing significant limits on governmental inquiry into the truth of any religious claim. See, e.g., *United States v. Ballard*, 322 U.S. 78 (1944).

This Court, moreover, has repeatedly taught that discrimination on the basis of religion is likewise forbidden under the equal protection clause. See, e.g., *Widmar v. Vincent*, 450 U.S. 909 (1981); *Niemotko v. State of Maryland*, 340 U.S. 268 (1951); *United States v. Carolene Products Co.*, 304 U.S. 144, 153 n. 4 (1938); *Strauder v.*

State of West Virginia, 100 U.S. 303 (1879). The lower court's ignoring of these precedents and its casual, even conclusory, treatment of the equal protection claim merits review by this Court.

III. This Court Should Grant the Writ to Resolve the Apparent Conflict among State Courts of Last Resort on How to Reconcile Parallel Provisions of the Federal and State Constitutions dealing with Free Exercise of Religion and Equal Protection.

There is, of course, considerable room for diversity of approaches to the interpretation of state constitutions that are permissible and even laudable in our federal system. As a general matter, the mandate of the supremacy clause is met as long as the interpretation of parallel provisions in the federal and state constitutions present no genuine conflict, or as long as the state constitution affords more rather than less protection. See, e.g., *Reynolds v. Sims*, 377 U.S. 533, 584 (1964).

This case illustrates the potential for conflict between federal and state constitutional provisions that arises when, contrary to the teaching of this Court, lower courts give greater value to the nonestablishment principle than to the free exercise principle. See L. Tribe, *American Constitutional Law* 1201-1204 (2d ed. 1988). The apparent conflict among state courts of last resort on this matter constitutes an independent ground for review of this case.

State courts are divided on the extent to which the free exercise clause or the equal protection clause of the federal constitution may require them to limit or even to invalidate provisions in state constitutions that are more stringent than the federal establishment clause.

Facing constitutional provisions similar to those challenged in this case, the Michigan Supreme Court invalidated a portion of its own constitution under the federal free exercise clause. *School District v. Kelly*, 384 Mich. 390, 408, 185 N.W.2d 9, 19 (1971). As the Michigan high court construed its state constitution, it

would require the court to invalidate services to private school children when provided on public school premises.[4] The Michigan court ruled that this denied those children the same benefit available to all others and therefore violated the free exercise clause. This is also the view of dissenting Justice Dolliver in *Witters II*, who would find that the Washington state constitution "cannot supersede the free exercise clause." *Witters*, 112 Wash. 2d 363, App. 34a.

Courts in other states have also decided that the federal standard must prevail, despite more specific and facially more stringent state constitutional provisions. These courts have interpreted their state constitutions to require the general principles embodied in the federal constitution, avoiding conflict between state provisions and the free exercise and establishment clause. E.g., *Conrad v. City and County of Denver*, 656 P.2d 662, 670 (Colo. 1982), after remand, 724 P.2d 1309 (Colo. 1986) (en banc); *Bowerman v. O'Connor*, 104 R.I. 519, 247 A.2d 82 (1968).

Other courts have applied standards in interpreting the state constitution that differ from those prescribed for the federal constitution, but have reached the same result that would obtain under the federal constitution.[5] This

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4 Nothing in *Grand Rapids School District v. Ball*, 105 S.Ct. 3216 (1985), teaches to the contrary, for that case involved the provision of services on private school premises.

5 See, e.g., *Commonwealth v. School Committee*, 382 Mass. 665, 417 N.E.2d 408 (1981) (special education services do not violate state constitution, applying state standards under state constitution); *Gaffney v. State Department of Education*, 192 Neb. 358, 362, 220 N.W.2d 550, 553 (1974) (transportation upheld, noting state constitution requires different rules but nonetheless considering Supreme Court precedent under the first amendment); *Board of Education v. Bakalis*, 54 Ill. 2d 448, 461, 464--65, 299 N.E.2d 737, 743, 745 (1973) (transportation of private school students held not to violate state constitution, on grounds that it was an historical practice); *Hughes v. Board of Education*, 154 W. Va. 107, 174 S.E.2d 711 (1970) (upholding transportation services under state and federal constitutions), app. dis-

Court has expressly approved a state constitutional provision that would afford neither more nor less protection than that afforded under the federal equal protection clause. *Crawford v. Los Angeles Board of Education*, 458 U.S. 527 (1982).

Another group of state courts of last resort have agreed with the Supreme Court of Washington and have held that state constitutional provisions restricting the use of public funds may be decided on state constitutional grounds alone, without regard to potential tension with the free exercise clause or other provisions in the federal Constitution. These include cases where the tension between the state provision and the federal free exercise clause was similar to that posed by the constitution of Washington. E.g., *Fannin v. Williams*, 655 S.W.2d 480, 483 (Ky. 1983) (textbook loans to students in private schools violates state constitution); *California Teachers' Ass'n v. Riles*, 29 Cal. 3rd 794, 812, 176 Cal. Rptr. 300, 632 P.2d 953, 964 (1981) (same); *Paster v. Tussey*, 512 S.W.2d 97 (Mo. 1974); *McDonald v. School Board*, 90 S.D. 599, 246 N.W.2d 93, 96 (1976) (same).

Almost all the states have provisions in their constitutions that are more detailed and usually more stringent than the establishment clause of the federal constitution.[6] Any of these provisions may pose a conflict

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missed, 403 U.S. 944 (1971); *Opinion of the Justices*, 109 N.H. 578, 258 A.2d 343 (1969) (upholding textbook loans and materials).

6 Ala. Const. art. I, § 3; Alaska Const. art. VII, § 1; Ariz. Const. art. II, § 12; Ark. Const. art. I, § 2; Cal. Const. art. IX, § 8; Colo. Const. art. II, § 4, & art. IX, § 7; Conn. Const. art. 7; Del. Const. art. I, § 1; Fla. Const. art. I, § 3 (1968); Hawaii Const. art. X, § 1; Idaho Const. art. IX, § 5; Ill. Const. art. 10, § 3; Ind. Const. art. 1, § 6; Iowa Const. art. 1, § 3; Kan. Bill of Rights, § 7; Ky. Const. § 189; Md. Const., Declaration of Rights, art. 36; Mass. Const., Articles of Amendment, art. XLVI, § 3, & art. CIII; Mich. Const. art. VIII, § 2, par. 2; Minn. Const. art. I, § 16, & art. XIII, § 2; Miss. Const. art. 8, § 208; Mo. Const. art. IX, § 8; Mont. Const. art. X, § 7; Neb. Const. art. I, § 4; Nev. Const. art. 11, § 10; N.H. Const. art. 6; N.J. Const. art. 1, § 3; N.M. Const. art. IV, § 31, & art. IX, § 14; N.Y. Const. art. 7, § 8(1), & art. 11, § 3; N.D.

between the state constitutional provision and the free exercise or the equal protection clauses in the federal constitution. If the Court grants the writ in this case, its decision could have a broad impact in every state with a state constitutional provision that could be construed to require the state to deny generally available benefits to an individual because of that individual's religious commitments. Granting the writ in this case would thus afford the Court an opportunity to clarify for the state courts the appropriate relationship between the federal constitutional guarantees of religious liberty and equal protection and parallel provisions in state constitutions.

Const. art. VIII, § 5; Ohio Const. art. VI § 2; Okla Const. art. II, § 5; Or. Bill of Rights, art. 1, § 5; Penn. Const. art. I, § 3, & art. 3, § 15; R.I. Const. art. 1, § 3; S.C. Const. art. XI, § 4; S.D. Const. art. VI, § 3; Tenn. Const. art. 1, § 3; Tex. Const. art. 1, § 7; Utah Const. art. 1, § 4, & art. X, § 9; Vt. Const. Ch. 1, art. 3; Va. Const. art. VIII, § 10; Wash. Const. art. 1, § 11; W.Va. Const. art. 3, § 15; Wis. Const. art. 1, § 18; Wyo. Const. art. 3, § 36.

CONCLUSION

For the reasons stated above, this Court should grant the writ of certiorari.

Respectfully submitted,

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